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Brad W. Buss, Robyn Denholm, Ira Ehrenpreis,
Antonio J. Gracias, James Murdoch, Kimbal Musk,
and Linda Johnson Rice

14 UNITED STATES DISTRICT COURT

15 NORTHERN DISTRICT OF CALIFORNIA

16
17 IN RE TESLA, INC. SECURITIES
18 LITIGATION

19 Case No. 3:18-cv-04865-EMC

20
21 **DEFENDANTS' SECOND AMENDED
22 PROPOSED VERDICT FORM**

1 **DEFENDANTS' SECOND AMENDED PROPOSED VERDICT FORM**

2 **A. RULE 10B-5 CLAIM: LIABILITY**

3 **Tweet 1: Am considering taking Tesla private at \$420. Funding secured.**

4 1. Did the Plaintiff prove that the statement "Funding secured" in the tweet "Am considering taking
5 Tesla private at \$420. Funding secured" was materially false or materially misleading?

6 Yes: _____ No: _____

7 *If you answered yes, then answer question 2. If you answered no, stop here and move on to Tweet
8 2 on the next page.*

9 2. Did the Plaintiff prove that the statement "Funding secured" was made by the Defendant(s)?

10 Elon Musk: Yes: _____ No: _____

11 Tesla: Yes: _____ No: _____

12 *If you answered yes as to one or both Defendants, answer question only 3 as to the same
13 Defendant(s). If you answered no to both Defendants, stop here and move on to Tweet 2 on the next page.*

14 3. Did the Plaintiff prove that the Defendant(s) made the statement "Funding secured" with actual
15 knowledge or deliberate recklessness that the statement was materially false or materially
16 misleading?

17 Elon Musk: Yes: _____ No: _____

18 Tesla: Yes: _____ No: _____

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20 PLEASE PROCEED TO TWEET 2 ON THE NEXT PAGE

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1 **Tweet 2: "Investor support is confirmed. Only reason why this is not certain is that it's contingent**
2 **on a shareholder vote."**

3 4. Did the Plaintiff prove that Tweet 2 was materially false or materially misleading?

4 Yes: _____ No: _____

5 *If you answered yes, then answer question 6. If you answered no, stop here and move on to the*
6 *instructions at the bottom of the page.*

7 5. Did the Plaintiff prove that Tweet 2 was made by the Defendant(s)?

8 Elon Musk: Yes: _____ No: _____

9 Tesla: Yes: _____ No: _____

10 *If you answered yes as to one or both Defendants, answer question only 6 as to the same*
11 *Defendant(s). If you answered no to both Defendants, stop here and move on to the instructions at the*
12 *bottom of the page.*

13 6. Did the Plaintiff prove that the Defendant(s) made Tweet 2 with actual knowledge or deliberate
14 recklessness that the statement was materially false or materially misleading?

15 Elon Musk: Yes: _____ No: _____

16 Tesla: Yes: _____ No: _____

17 If you answered yes to either Defendant in questions 3 or 6, move on to question 7 on the next
18 page. If you did not, you are finished with the Verdict Form. Please turn to the last page, sign and date
19 the Verdict Form and inform the Court you have finished.

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1 7. Did the Plaintiff prove reliance?

2 Yes: _____ No: _____

3 *If you answered yes, then answer questions 8 and 9. If you answered no, you are finished with the*
4 *Verdict Form. Please turn to the last page, sign and date the Verdict Form and inform the Court you have*
5 *finished.*

6 8. On what date did the market learn the truth about the information that was allegedly misstated
7 in Tweet 1 and/or Tweet 2?

8 Date: _____

9 9. Did the Plaintiff prove that the statement(s) referenced in Questions 1 and 4 caused the Plaintiff
10 to suffer losses?

11 Yes: _____ No: _____

12 *If you answered yes, please proceed to **Part B**, below. If you answered no, you are finished with*
13 *the Verdict Form. Please turn to the last page, sign and date the Verdict Form and inform the Court you*
14 *have finished.*

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2 **B. RULE 10B-5 CLAIM: DAMAGES**3
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5 1. Did Plaintiff prove the amounts of artificial inflation listed in the table below and that they were
6 caused by material misstatements caused by Defendant(s)?
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	07-Aug	08-Aug	09-Aug	10-Aug	13-Aug	14-Aug	15-Aug	16-Aug	17-Aug
(\$/share)	\$66.67	\$57.44	\$39.55	\$42.59	\$43.51	\$34.74	\$25.79	\$22.55	\$N/A

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5 Yes: _____ No: _____
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9 2. On what date did the market price of Tesla stock return to the level it would have been trading at
10 absent any material misstatements?
1112 Date: _____
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3. Has Plaintiff proven what the implied volatilities for each Tesla stock option traded during each day of the Class Period would have been but for Tweet 1 and/or Tweet 2?

Yes: _____ No: _____

4. If you answered “Yes” to Question 3, determine the “but for” implied volatility percentages proved by Plaintiffs for each option contract maturity date during the Class Period and write it in the table below

	Day of Class Period at Close of Market							
	07-Aug	08-Aug	09-Aug	10-Aug	13-Aug	14-Aug	15-Aug	16-Aug
Maturity Date	Aug 10, 2018			NA	NA	NA	NA	NA
	Aug 17, 2018							
	Aug 24, 2018							
	Aug 31, 2018							
	Sep 7, 2018							
	Sep 14, 2018							
	Sep 21, 2018							
	Sep 28, 2018							
	Oct 19, 2018							
	Nov 16, 2018							
	Dec 21, 2018							
	Jan 18, 2019							
	Feb 15, 2019							
	Mar 15, 2019							
	Jun 21, 2019							
	Aug 16, 2019							
	Jan 17, 2020							

5. For each Note, did Plaintiff prove the amounts of artificial inflation listed in the table below and that they were caused by Defendant(s)?

	07-Aug	08-Aug	09-Aug	10-Aug	13-Aug	14-Aug	15-Aug	16-Aug	17-Aug
2019 Note	\$4.49	\$3.23	\$1.85	\$2.30	\$2.83	\$2.87	\$2.43	\$2.17	\$0.00
2021 Note	\$6.17	\$4.44	\$2.54	\$3.16	\$3.88	\$3.95	\$3.34	\$2.99	\$0.00
2022 Note	\$6.26	\$4.50	\$2.58	\$3.20	\$3.94	\$4.00	\$3.38	\$3.03	\$0.00

Yes: _____ No: _____

PLEASE PROCEED TO THE NEXT PAGE

1 C. **SECTION 20(A) CLAIM: LIABILITY**

2 **Question No. 1:**

3 Has Plaintiff proved the Section 20(a) Claim as to any of the Tesla Director Defendants (**check all**
that apply):

4 Brad W. Buss: Yes: _____ No: _____
5 Robyn Denholm: Yes: _____ No: _____
6 Ira Ehrenpreis: Yes: _____ No: _____
7 Antonio J. Gracias: Yes: _____ No: _____
8 James Murdoch: Yes: _____ No: _____
9 Kimbal Musk: Yes: _____ No: _____
10 Linda Johnson Rice: Yes: _____ No: _____

11 **Question No. 2:**

12 If you answered “Yes” in response to Question No. 1 as to any Defendant, have Defendants proved
13 a Good Faith Defense as to that Defendant (**check all that apply**):

14 Brad W. Buss: Yes: _____ No: _____
15 Robyn Denholm: Yes: _____ No: _____
16 Ira Ehrenpreis: Yes: _____ No: _____
17 Antonio J. Gracias: Yes: _____ No: _____
18 James Murdoch: Yes: _____ No: _____
19 Kimbal Musk: Yes: _____ No: _____
20 Linda Johnson Rice: Yes: _____ No: _____

21 PLEASE PROCEED TO SECTION D ON THE NEXT PAGE.
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1 **D. ALLOCATION OF RESPONSIBILITY**2 **Question No. 1:**3 If Plaintiff proved a Rule 10b-5 Claim and/or Section 20(a) Claim against any Defendant, did that
4 Defendant act with “actual knowledge” or “deliberate recklessness”?

5 Only answer this question as to the Defendants against whom you found Plaintiff proved a claim.

6 Answer the following question only as to the statements for which Plaintiff proved Rule 10(b)-5
7 liability.8 **Statement 1: “Funding secured”**

9 Elon Musk:	Actual Knowledge: _____	Deliberate Recklessness: _____
10 Tesla:	Actual Knowledge: _____	Deliberate Recklessness: _____
11 Brad W. Buss:	Actual Knowledge: _____	Deliberate Recklessness: _____
12 Robyn Denholm:	Actual Knowledge: _____	Deliberate Recklessness: _____
13 Ira Ehrenpreis:	Actual Knowledge: _____	Deliberate Recklessness: _____
14 Antonio J. Gracias:	Actual Knowledge: _____	Deliberate Recklessness: _____
15 James Murdoch:	Actual Knowledge: _____	Deliberate Recklessness: _____
16 Kimbal Musk:	Actual Knowledge: _____	Deliberate Recklessness: _____
17 Linda Johnson Rice:	Actual Knowledge: _____	Deliberate Recklessness: _____

18 **Statement 2: Tweet 2**

19 Elon Musk:	Actual Knowledge: _____	Deliberate Recklessness: _____
20 Tesla:	Actual Knowledge: _____	Deliberate Recklessness: _____
21 Brad W. Buss:	Actual Knowledge: _____	Deliberate Recklessness: _____
22 Robyn Denholm:	Actual Knowledge: _____	Deliberate Recklessness: _____
23 Ira Ehrenpreis:	Actual Knowledge: _____	Deliberate Recklessness: _____
24 Antonio J. Gracias:	Actual Knowledge: _____	Deliberate Recklessness: _____
25 James Murdoch:	Actual Knowledge: _____	Deliberate Recklessness: _____
26 Kimbal Musk:	Actual Knowledge: _____	Deliberate Recklessness: _____
27 Linda Johnson Rice:	Actual Knowledge: _____	Deliberate Recklessness: _____

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2 **Question No. 2:**

3 If you checked “Actual Knowledge” for **all** Defendant(s) and as to **each misstatement** for which
4 Plaintiff proved a Rule 10b-5 Claim, please skip to the final page.

5 If you checked “Deliberate Recklessness” for **any** Defendant(s) and as to **any** misstatement, you
6 must determine what percentage of responsibility, if any, for the Plaintiff’s loss is due to each Defendant.

7 Only assign a percentage of responsibility to Defendants for whom found liable in Section A or
8 Section C. The total must add up to 100%.

9 _____ % Elon Musk

10 _____ % Tesla

11 _____ % Brad W. Buss

12 _____ % Robyn Denholm

13 _____ % Ira Ehrenpreis

14 _____ % Antonio J. Gracias

15 _____ % James Murdoch

16 _____ % Kimbal Musk

17 _____ % Linda Johnson Rice

18 **(Total must equal 100%)**
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20 PROCEED TO SECTION F ON THE NEXT PAGE.
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E. RETURN OF VERDICT

Once the form is completed, the foreperson for the jury must sign and date it below:

Dated: _____

Signed: _____
Jury Foreperson

CERTIFICATE OF SERVICE

I hereby certify that the foregoing document was served on all counsel of record electronically or by another manner authorized under FED. R. CIV. P. 5(b) on this the 4th day of January 2023.

QUINN EMANUEL URQUHART & SULLIVAN, LLP

By /s/ Alex Bergjans
Alex Bergjans

Attorneys for Tesla, Inc., Elon Musk, Brad W. Buss, Robyn Denholm, Ira Ehrenpreis, Antonio J. Gracias, James Murdoch, Kimbal Musk, and Linda Johnson Rice